

THIS DISPOSITION IS NOT
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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re New Life Treatment Centers, Inc.

Serial No. 75/171,503

Kay Lyn Schwartz of Gardere & Wynne, L.L.P. for New Life
Treatment Centers, Inc.

Stacey J. Johnson, Trademark Examining Attorney, Law Office
113 (Meryl Hershkowitz, Managing Attorney).

Before Hohein, Hairston and Chapman, Administrative
Trademark Judges.

Opinion by Chapman, Administrative Trademark Judge:

An application has been filed by New Life Treatment
Centers, Inc. to register the mark WOMEN OF FAITH for
"audio tapes and video tapes featuring inspirational and
religious presentations for women" in Class 9; "stationery,
brochures about inspirational topics, posters and religious
books" in Class 16; and "arranging and conducting religious

conferences for women featuring inspirational and motivational women speakers" in Class 41.¹

The Examining Attorney has finally refused registration for all three classes of goods and services under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the basis that the mark WOMEN OF FAITH, when applied to the goods and services of the applicant, is merely descriptive of them.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We reverse.

The Examining Attorney contends that the mark WOMEN OF FAITH "describes the subject matter and the intended consumer of applicant's goods and services" (brief, p. 2); that applicant's goods and services "contain 'women of faith' stories as a subject matter and are additionally directed at 'women of faith' as an intended audience" (brief, p. 4); and that "the whole phrase, 'WOMEN OF FAITH,' is used in common parlance to describe religious women or women who share religious faith." (brief, p. 4).

Applicant argues that its mark is suggestive rather

¹ Application Serial No. 75/171,503, filed September 11, 1996. The claimed dates of first use are January 19, 1996 for the Class 9 goods; August 15, 1995 for the Class 16 goods; and June 15, 1994 for the Class 41 services.

than merely descriptive because the mark does not immediately convey information to prospective purchasers about applicant's goods and services, but instead requires imagination and thought to make a connection between the mark WOMEN of FAITH and applicant's goods and services; that the term "faith," as defined in dictionaries, has many meanings and connotations, beyond religious faith; that several third-party registrations show that the term "faith" is a commonly used portion of registered marks which cover a variety of goods and services, (such as monthly magazines, greeting cards, fine art prints, prerecorded audio and video tapes, educational services, and producing radio and television programs); and that any doubt as to the question of whether a mark is merely descriptive should be resolved in applicant's favor.

Both the Examining Attorney and applicant submitted dictionary definitions of the term "faith." In addition, the Examining Attorney submitted a few stories reprinted from the Nexis database; and applicant submitted a list of third-party registrations². Applicant's specimens of use are also of record.

² Applicant submitted the third-party registrations by including a typed list of the registrations in its July 21, 1997 response to an Office action. Generally, mere listings of third-party registrations are insufficient to make them of record. See *In re Consolidated Cigar Corp.*, 35 USPQ2d 1290 (TTAB 1995); and *In re*

It has long been acknowledged that there is often a very narrow line between terms which are merely descriptive and those which are suggestive, and the borderline between the two is hardly a clear one. See *In re Atavio Inc.*, 25 USPQ2d 1361 (TTAB 1992).

The test for determining whether a mark is merely descriptive is whether the mark immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978); and *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979). Whereas, a mark is suggestive if imagination, thought or perception is required to reach a conclusion on the nature of the goods or services. See *In re Quik-Print Copy Shop, Inc.*, 616 F.2d 523, 205 USPQ2d 505 (CCPA 1980).

Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or

Duofold, 184 USPQ 638 (TTAB 1974). However, the Examining Attorney did not object to the evidence and, in fact, treated it as of record. Therefore, we will consider the listing for whatever probative value it may have. (We note that the listing includes no information as to matters such as registration dates, registrants, or disclaimers.)

services for which registration is sought, the context in which the term or phrase is being used on or in connection with those goods or services, and the impact that it is likely to make on the average purchaser of such goods or services. See *Consolidated Cigar*, supra; and *In re Pennzoil Products Co.*, 20 USPQ2d 1753 (TTAB 1991).

In the present case, we conclude that the mark WOMEN OF FAITH requires a degree of imagination or perception to determine the nature of the audience or prospective purchasers to whom applicant's goods and services are directed. The mark is a unitary phrase with a very generalized meaning referring to females and "faith." The latter term is one with a myriad of meanings and connotations as evidenced by a perusal of the common dictionary definitions thereof (e.g., "belief," "trust," "loyalty," "religious conviction," "fidelity," "allegiance," "sincerity").

The mark WOMEN OF FAITH does not readily and immediately evoke an impression and an understanding of the subject matter or intended consumers of applicant's audio and video tapes, publications or services of arranging and conducting religious conferences. Specifically, while the broad subject matter of applicant's goods and services is inspirational and directed to women, strictly speaking the

subject matter is not "women of faith." The Nexis stories of record do not evidence use of the words, "WOMEN OF FAITH," descriptively in relation to the goods or services which are the subject of this application. Rather, the stories include the words "women of faith" in the broadest general context referring to a portion of the population. For example, see the excerpts below:

This past summer men and women of faith were dismayed by the fires which destroyed predominantly Southern black churches. The Providence Journal-Bulletin, December 7, 1996;

Church Women United is [a] worldwide ecumenical group for women of faith. The Columbian (Vancouver, WA.), January 13, 1997; and

As North Korea's food crisis has worsened, men and women of faith have been among the few U.S. citizens allowed into the country. USA Today, February 26, 1997.

We also disagree with the Examining Attorney's contention that applicant's specimens of record show descriptive uses of the phrase "women of faith." (For example, one of the statements quoted by the Examining Attorney does not include the words "women of faith," and one statement reads as follows: "A weekend that assembles some of today's most inspirational and influential

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women...women of profound and enduring faith, sparkling wit, and infectious joy.")

Upon a careful review of this record, we find that the mark WOMEN OF FAITH is not merely descriptive as applied to the involved goods and services, but is at best only suggestive of them.

Decision: The refusal to register under Section 2(e)(1) is reversed.

G. D. Hohein

P. T. Hairston

B. A. Chapman
Administrative Trademark Judges,
Trademark Trial and Appeal Board